

SB 71 Advanced Transportation & Alternative Source Manufacturing Sales and Use Tax Exclusion (STE) Program

Post CAEATFA Board Approval of STE Application: Applicant's Procedures¹ (As of August 15, 2012)

Below is a summary of the steps required for an approved applicant to utilize CAEATFA's approval of a sales and use tax exclusion (STE). This document provides a brief summary; please refer to [CAEATFA's regulations](#) for additional information.

Board Approval

- If an Application is approved, the Applicant will be notified in writing following the Authority's Board meeting. An Applicant will receive a Notification Letter and a certified copy of the Board resolution for their files.
- **25% of the Qualified Property purchases must be made within one year** of Board approval by the Authority per Section 10035(c)(1) of CAEATFA regulations.
- **100% of the Qualified Property purchases must be made within three years** of Board approval by the Authority per section 10035(c)(1) of CAEATFA regulations unless the Board has agreed to a different term in the approval resolution.

Execution of the Title Conveyance Agreement and Regulatory Agreement

CAEATFA Staff will follow up with the Applicant after Board approval, via email, to provide specific instructions to the Applicant on the following process, including due dates and specific information/documents required from the Applicant.

1. All recipients of the STE are required to execute the Master Regulatory and Title Conveyance Agreement, (collectively the "Master Agreement") as a condition to the Authority's making a finding and awarding STE, **within 30 days** from the date of the Board's approval shown on the Notification Letter. The Master Agreement shall include a Master Agreement Exhibit A which consists of a list of the Qualified Property to be purchased.

¹ Capitalized terms are defined in the Program's statute and regulations.

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2. The provisions of the Master Agreement are not negotiable. A copy of the [template Master Agreement](#) and [template Master Agreement Exhibit A](#) can be found here.
3. CAEATFA Staff will provide a Master Agreement specific to the approved Application to the Applicant.
4. Prior to execution of the Master Agreement staff will request the Applicant to fill out and submit an [Authorized Signatory Document](#) to identify representatives of the Applicant's company that are authorized to enter into contracts on behalf of the company.
5. The following items are required in order to execute the Master Agreement:
 - Two copies of the Master Agreement signature page with original signatures (signed by an authorized representative of the Applicant's company); and
 - **Fees:** A check for the \$15,000 minimum Administrative Fee (per Section 10036(b)(4) of CAEATFA regulations) made out to CAEATFA.
6. CAEATFA will draft, distribute, review and sign both copies of the Master Agreement. The documents will be countersigned and each party will retain an original copy of the Master Agreement with original signatures for its records.
7. The regulatory provisions of the Master Agreement will continue in force for a period equal to the longer of (a) three years or (b) one-half of the Estimated Useful Lifespan of the longest lived item of Qualified Property identified in the Application. The conveyance/reconveyance provisions will continue in force for a period equal to the shorter of three years (unless a different term is agreed to by the Board in the approval resolution) or when total purchases of Qualified Property reach the not to exceed amount set forth in the approval resolution.

Purchases of Qualified Property and Transaction Agreements (Conveyance/Reconveyance to CAEATFA)

1. Applicants will purchase equipment from vendors using an Exemption Certificate per the California [Board of Equalization \(BOE\) Sales and Use Tax Regulations Section 1667\(c\)\(1\)](#). CAEATFA does not provide Exemption Certificates.
2. Applicants will convey title of Qualified Property to CAEATFA per the Conveyance/Reconveyance Agreement ("Transaction Agreement") including an Exhibit A which provides a detailed list of the Qualified Property and the location within

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which it was purchased. Applicants must have title of the Qualified Property but may not have put it to functional use (as defined by the BOE) prior to conveyance to CAEATFA.

3. The provisions of the Transaction Agreement are not negotiable. The [template Transaction Agreement](#) and the [template of Transaction Agreement Exhibit A](#) can be found here.
4. Each time an Applicant wishes to convey title they must submit to CAEATFA²:
 - One copy of the Transaction Agreement and Exhibit A (in EXCEL format) with original signature (signed by an authorized representative)
 - **Fees:** a check for the Administrative Fee due per Section 10036(b) of the CAEATFA regulations
5. CAEATFA will have 10 days to review and reconvey title (sign the Transaction Agreement) back to the Applicant.
6. Once CAEATFA has approved and signed the original copy of the Transaction Agreement, a copy of the document will be emailed and mailed to the Applicant. CAEATFA will retain an original copy of the Transaction Agreement with original signatures.

Final Conveyance/Reconveyance Agreement (“Final Transaction Agreement”)

1. The Applicant will submit a Final Transaction Agreement when the final total amount of Qualified property purchases equals the total amount of the exclusion granted or when the Applicant no longer wishes to exercise the sales and use tax exclusion granted and signifies that the Applicant’s purchases are no longer subject to the sales and use tax exclusion.
2. The provisions of the Final Transaction Agreement are not negotiable. The [template Final Transaction Agreement](#) can be found here. The Final Transaction Agreement

² **Optional Email:** An Applicant may email their Transaction Agreement and Exhibit A to the assigned CAEATFA analyst if they wish to expedite the review of the agreement, however, CAEATFA will not sign or reconvey title until they have received a copy with an original signature and the appropriate Administrative Fee.

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Exhibit A is the same as The Transaction Agreement Exhibit A used in the Transaction Agreements.

3. As with Transaction Agreements, the Final Transaction Agreement can only be submitted to CAEATFA when the Applicant has title of the Qualified Property identified in the agreement, but has not yet put the Qualified Property to functional use.
4. The Applicant must submit one copy of the Final Transaction Agreement and Exhibit A (in EXCEL format) with original signature (signed by an authorized representative).
5. **Fees.** The submission of a Final Transaction Agreement triggers a final determination of the total amount of Qualified Property purchased by the Applicant, and the corresponding amount of the total Administrative Fee due:
 - If any remaining Administrative Fee is due, the Fee should be submitted at the time of submitting the Final Transaction Agreement.
 - In the event that an Applicant has overpaid Administrative Fees, the overpayment will be refunded to the Applicant by CAEATFA within 30 days of execution of the Final Transaction Agreement.
6. CAEATFA will have 10 days to review and reconvey title (sign the Final Transaction Agreement) back to the Applicant.
7. Once CAEATFA has approved and signed the original copy of the Final Transaction Agreement, a copy of the document will be emailed and mailed to the Applicant. CAEATFA will retain an original copy of the Final Transaction Agreement with original signatures
8. **Final Report.** Within 30 days of execution of Final Transaction Agreement, the Applicant must submit a final Exhibit A with an individualized list of all Qualified Property purchased throughout the term of the Master Agreement.

Reporting Requirements

Certification Letter. During the term of the Regulatory Provisions of the Master Agreement, Applicants must submit an annual certification letter by January 31st each year, documenting that the Qualified Property was used for the purposes specified in the Application for the entire period since the conveyance/reconveyance process for that particular property.

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Annual Compliance Report. During the term of the Regulatory Provisions of the Title Agreement, Applicants must submit an annual compliance report by January 31st each year with information for the previous year, including the following information:

- Total payroll
- Number of full time equivalent permanent jobs
- Number of full time equivalent construction or installation jobs
- Total annual product sales (in dollars) including the fraction in California
- Total number of units sold including the fraction in California
- Anticipated corporate or personal income tax related to the Facility
- Amount spent of supplier purchases
- Total amount of Qualified Property purchased to date
- Narrative description of project status, timeline, anticipated purchase dates of any additional items of Qualified Property and an explanation of any material changes
- Statement indicating the fraction of the time the Qualified Property has been used to make eligible products under the SB 71 program
- Any other information requested by the Executive Director that is reasonably related to the purposes of the Program

For clarification on any of these procedures please contact a CAEATFA staff member.

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